

**UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

COMPLAINT

DIONE WILLIAMS (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against BLUESTEM BRANDS INC., d/b/a FINGERHUT (“Defendant”):

INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act ("TCPA").

JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant conducts business in the Commonwealth of Pennsylvania and as such, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

PARTIES

5. Plaintiff is a natural person residing in Philadelphia, Pennsylvania
19120.

6. Plaintiff is a “person” as that term is defined by 47 U.S.C. § 153(39).

7. Defendant is a business entity with an office located at 7075 Flying Cloud Drive, Eden Prairie, Minnesota 55344.

8. Defendant is a “person” as that term is defined by 47 U.S.C. §153(39).

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number

11. Plaintiff has had a cellular telephone number for more than one year.

12. Beginning in or about July 2015, and continuing through late 2016 or early 2017, Defendant placed repeated harassing telephone calls to Plaintiff on her cellular telephone.

13. When contacting Plaintiff, Defendant used an automatic telephone dialing system and automatic and/or pre-recorded messages.

14. Defendant's telephone calls were not made for "emergency purposes."

15. Plaintiff told Defendant to stop calling when the calls first began in

July 2015.

16. However, Defendant continue to call Plaintiff through late 2016 or early 2017.

17. Once Defendant knew its calls were unwanted any further calls served no lawful purpose.

COUNT I
DEFENDANT VIOLATED THE
TELEPHONE CONSUMER PROTECTION ACT

18. Plaintiff incorporates the forgoing paragraphs as though the same were set forth at length herein.

19. Defendant initiated multiple automated telephone calls to Plaintiff's cellular telephone using a prerecorded voice.

20. Defendant initiated these automated calls to Plaintiff using an automatic telephone dialing system.

21. Defendant's calls to Plaintiff were not made for emergency purposes.

22. Defendant's calls to Plaintiff, in and after July 2015, were not made with Plaintiff's prior express consent

23. Defendant's acts as described above were done with malicious, intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights under the law and with the purpose of harassing Plaintiff.

24. The acts and/or omissions of Defendant were done unfairly, unlawfully, intentionally, deceptively and fraudulently and absent bona fide error, lawful right, legal defense, legal justification or legal excuse.

25. As a result of the above violations of the TCPA, Plaintiff has suffered the losses and damages as set forth above entitling Plaintiff to an award of statutory, actual and trebles damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, DIONE WILLIAMS, respectfully prays for a judgment as follows:

- a. All actual damages suffered pursuant to 47 U.S.C. § 227(b)(3)(A);
- b. Statutory damages of \$500.00 per telephone call pursuant to 47 U.S.C. § 227(b)(3)(B);
- c. Treble damages of \$1,500.00 per telephone call pursuant to 47 U.S.C. §227(b)(3) or alternatively that amount for all calls

1 made after Defendant was notified that they were calling the
2 wrong person and wrong number;

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4 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);
5 e. Any other relief deemed appropriate by this Honorable Court.

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7 **DEMAND FOR JURY TRIAL**

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9 PLEASE TAKE NOTICE that Plaintiff, DIONE WILLIAMS, demands a
10 jury trial in this case.

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12 RESPECTFULLY SUBMITTED,

13 DATED: June 16, 2017 KIMMEL & SILVERMAN, P.C.

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